

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

v.

DANIEL S. WILSON,

Defendant.

**8:22CR121****ORDER**

On May 17, 2022, a grand jury indicted defendant Daniel S. Wilson (“Wilson”) on two counts of being a felon in possession of a firearm, in violation of 18 U.S.C. §§ 922(g)(1) (Filing No. 1). On October 13, 2023, Wilson moved to dismiss the Indictment (Filing No. 38) on the grounds that § 922(g)(1) “is facially unconstitutional and unconstitutional as applied to” him based on the Supreme Court’s subsequent decision in *New York State Rifle & Pistol Association, Inc. v. Bruen*, 597 U.S. 1, 24 (2022) (requiring the government demonstrate its regulation of constitutionally-protected firearm possession “is consistent with the Nation’s historical tradition of firearm regulation”).

That motion was referred to the magistrate judge then assigned to the case. *See* 28 U.S.C. § 636(b)(1)(A) (providing a district judge may “designate a magistrate judge to conduct hearings, including evidentiary hearings, and to submit to a judge of the court proposed findings of fact and recommendations for the disposition” of a dispositive motion); NECrimR 59.1(c)(1)(A). The government opposed Wilson’s motion (Filing No. 41), relying on the Eighth Circuit’s June 2023 decision in *United States v. Jackson*, 69 F.4th 495 (8th Cir. 2023), vacated by *Jackson v. United States*, 144 S. Ct. 2710 (2024) (mem.). For months, the matter was continued with the consent of the parties. During that time, *United States v. Rahimi*, 602 U.S. 680 (2024), was pending before the Supreme Court, presenting a similar constitutional challenge to 18 U.S.C. § 922(g)(8).

In June 2024, the Supreme Court determined in *Rahimi* that § 922(g)(8) was sufficiently justified by the “tradition of firearm regulation,” which “allows the Government to disarm individuals who present a credible threat to the physical safety of others.” 602 U.S. at 700. *Jackson* was thereafter vacated and remanded in light of that decision. *See* 144 S. Ct. 2710. The Eighth Circuit again concluded “that recent decisions on the Second Amendment cast no doubt on the constitutionality of laws prohibiting the possession of firearms by felons.” *United States v. Jackson*, 110 F.4th 1120, 1129 (8th Cir. 2024). With the Court’s permission, the parties filed supplemental briefing detailing how they believed these intervening decisions impacted their positions in this matter (Filing Nos. 55, 62).

Now before the Court is the magistrate judge’s<sup>1</sup> Findings and Recommendation (Filing No. 63) issued on December 9, 2024. Having considered the parties’ arguments and controlling authority, the magistrate judge recommends the Court deny Wilson’s motion because “[t]he Eighth Circuit has concluded that the statute is not unconstitutional either on its face or as applied to the same types of charges pending against [Wilson].”

No objections have been filed, and the time to do so has passed. *See* 28 U.S.C. § 636(b)(1) (giving parties 14 days to object to a magistrate judge’s findings and recommendation); *accord* NECrimR 59.2(a). Under § 636(b)(1), a district judge must only conduct a de novo review of “those portions of the report or specified proposed findings or recommendations to which objection is made.” *See also Peretz v. United States*, 501 U.S. 923, 939 (1991). “[T]he failure to file objections eliminates not only the need for de novo review, but *any* review by the district court.” *Leonard v. Dorsey & Whitney LLP*, 553 F.3d 609, 619-20 (8th Cir. 2009) (citing *Thomas v. Arn*, 474 U.S. 140, 150 (1985)). Given the lack of objections and the magistrate judge’s sound reasoning,

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<sup>1</sup>The Honorable Ryan C. Carson, United States Magistrate Judge for the District of Nebraska.

IT IS ORDERED:

1. The magistrate judge's Findings and Recommendation (Filing No. 63) is accepted in its entirety. Any objections are deemed waived.
2. Defendant Daniel S. Wilson's Motion to Dismiss Indictment (Filing No. 38) is denied.

Dated this 27th day of December 2024.

BY THE COURT:



Robert F. Rossiter, Jr.  
Chief United States District Judge